

HOUSE BILL 2266
By Borchert

AN ACT to amend Tennessee Code Annotated, Title 4 and Title 11, Chapter 6, relative to shipwrecks.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 11, Chapter 6, Part 1 is amended by adding the following as a new section to be appropriately designated:

11-6-122.

(a)

(1) Notwithstanding any other provision of this chapter, the sites of shipwrecks relating to the civil war on the Tennessee River in Henry, Benton and Humphries counties and artifacts relating to such shipwrecks shall be under the jurisdiction and control of the "Raise the Gunboats Commission" created by this section.

(2) The state archeologist, the Tennessee historical commission and the department of environment and conservation shall have no authority over sites and artifacts regulated pursuant to this section.

(b) There is created a "Raise the Gunboats Commission". The commission shall consist of seven (7) members to be appointed by the governor. The commission shall consist of one (1) member representing Henry County, one (1) member representing Humphries County, one (1) member representing Benton County, one (1) member representing the city of Camden, one (1) member representing the city of Waverly, one (1) member representing the Tennessee state museum, and one (1) member representing the Tennessee department of environment and conservation. The governor may also appoint up to two (2) members as non-voting ex officio members representing the University

of Tennessee system and the board of regents of the state university and community college system.

(c) The commission is created to plan, finance, develop, manage, and operate salvaging and related historic preservation activities on the Tennessee River related to Civil War era shipwreck sites in Henry, Humphries and Benton counties.

(d)

(1) For administrative purposes, the commission shall be attached to the department of environment and conservation for all administrative matters relating to receipts, disbursements, expense accounts, budget, audit, and other related items. The autonomy of the commission and its authority are not affected by the administrative attachment and the commissioner of environment and conservation shall have no administrative or supervisory control over the commission. The commission, as an agency of the state, shall prepare its annual budget in accordance with title 9, chapter 6.

(2) The governor may designate members of the cabinet to serve as nonvoting ex officio members. Members shall serve four-year terms unless they serve in an ex officio capacity. Members shall serve until their successors are selected and qualified. The governor may remove a member for cause. The chair of the board shall be selected by the governor.

(3) Upon completion of its membership, the appointees shall meet and organize at a site to be selected by the commissioner of environment and conservation, elect a vice chair and secretary-treasurer, and set a regular time and place for meetings of the commission.

(4) At least annually, the commission shall hold a meeting at which members of the general public shall be allowed to address the commission.

(5) All meetings of the commission shall be public and shall comply with the state law on open meetings codified in title 8, chapter 44.

(e) Commission members shall serve without compensation, except reimbursement for actual travel expenses and other necessary expenses incurred in the

performance of their official duties, such expenses to be reimbursed from such funds as may be available to the commission. All reimbursement for travel expenses shall be in accordance with the provisions of the comprehensive travel regulations as promulgated by the department of finance and administration and approved by the attorney general and reporter.

(f) The powers, duties and functions of the commission are as follows:

(1) General:

(A) Subject to applicable federal law, enter into such contracts and cooperative agreements with the federal, state and local governments, with agencies of such governments, with private individuals, corporations, associations and other organizations as the commission may deem necessary or convenient to enable it to carry out the purposes of this part;

(B) Adopt, amend and repeal bylaws;

(C) Appoint such managers, officers, employees, attorneys and agents as the board deems necessary for the transaction of its business, fix their compensation, define their duties and require bonds of such if necessary as the commission may determine. The salary of any such employees may be paid out of such funds as may be available to the commission from any source;

(D) Acquire such insurance as may be necessary; and

(E) Receive funds from the general public and receive funds from the state of Tennessee at such times and in such amounts as appropriated by the general assembly;

(2) Formulation and execution of development plans:

(A) Investigate the resources related to salvage sites on the Tennessee River area and determine the requirements for their full development as historic sites;

(B) Develop and carry out a unified comprehensive program of resource development for historical preservation and related development of the area;

(C) In making such investigations and in formulating development plans, seek and utilize the assistance of appropriate federal, state and local agencies and of private citizens and citizen organizations interested in the conservation and development of the historical resources of the shipwrecks; and

(D) Provide, develop and help, as appropriate, the needed and feasible cooperative arrangements for the salvaging of shipwrecks, as a part of comprehensive plans and, in aid of such activities, accept loans, grants or other assistance from federal, state or local governments or from agencies of such governments;

(3) Land acquisition:

Acquire by purchase, lease, gift or in any manner other than by condemnation, property of any kind, real, personal or mixed, or any interest therein, that the commission deems necessary or convenient to the exercise of its powers or functions; provided, that acquisition shall be limited to land, rights in land, including leaseholds and easements, and water rights in the Tennessee River watershed that the commission determines to be necessary to the control and optimum development of the salvage sites. The amount and character of interest in land, rights in land and water rights to be acquired within either of these boundaries shall be determined by the commission, and its determination shall be conclusive; and

(4) Management and operation:

(A) Develop a plan for salvage and historic preservation of artifacts from the shipwrecks, subject to any necessary agreements with appropriate federal agencies as federal law may require. The plan shall

include, but not be limited to, a proposal for planning, financing, developing, managing, and operating salvage activities and a museum;

(B) (i) Sell or lease lands acquired in connection with development of the salvage and historic preservation activities for uses consistent with the commission's development plan and subject to such restrictions as the commission deems necessary for protection of the river and to such requirements as to:

(a) Character of improvements and activities; and

(b) Time within which such improvements or activities shall be undertaken as the commission deems appropriate to its overall development plan;

(ii) Dispose of real property interests, provided that the requirements of § 12-2-112, concerning advertisement and appraisal shall not apply to such dispositions of property;

(D) Acquire or operate lands related to the river salvage sites owned by the United States as the agent of the federal agency having custody and control thereof under appropriate agreements with such agencies;

(E) Establish and operate a museum related to the shipwrecks and related artifacts;

(F) Charge admission fees and impose similar charges related to the museum, salvaging and historic sites;

(G) Establish a system of applications and permits for salvaging activities concerning the shipwrecks, subject to the approval of the state archeologist; and

(H) Acquire, construct or operate other facilities or works of improvement as are necessary to effectuate plans for comprehensive development of the area.

(g) (1) The commission shall report annually to the governor and shall likewise report annually to the governing bodies of Benton, Humphries and Henry counties and the various towns and incorporated municipalities of the area. Such reports shall include statements of financial receipts and expenditures, and a summary of all activities and accomplishments for the period and proposed plans for the next year.

(2) The commission shall annually formulate and issue a statement of objectives, including priorities and programs that it has adopted or envisions to meet. This statement of objectives shall be included in the annual report.

(h) All agencies of the state of Tennessee are hereby authorized to extend their cooperation and lend assistance to the commission in the formulation and implementation of a development program. This assistance may include providing staff assistance to the commission.

(i)

(1) The comptroller of the treasury is directed to develop or approve a uniform accounting system conforming to generally accepted accounting principles for the commission.

(2) The annual report, including financial statements, and all books of account and financial records are subject to annual audit by the comptroller of the treasury. The commission may, with the prior approval of the comptroller of the treasury, engage licensed independent public accountants to perform the audits. The audit contract between the commission and the independent public accountant shall be on contract forms prescribed by the comptroller of the treasury. The commission is responsible for reimbursement of the costs of audits prepared by the comptroller of the treasury and the payment of fees for audits prepared by licensed independent public accountants. Audits and working papers prepared by independent public accountants shall be reviewed and approved by the comptroller of the treasury prior to payment. Copies of

such audits shall be provided to each member of the commission and the comptroller of the treasury and shall be made available to the public.

(j) The commission shall develop purchasing, contracting and personnel procedures which shall be approved by the comptroller of the treasury and the commissioner of finance and administration prior to implementation.

(k) Artifacts from sites under control of the commission shall remain property of the state of Tennessee under the custodianship of the commission.

(l) The commission is authorized to promulgate rules and regulations to effectuate the purposes of this act. All such rules and regulations shall be promulgated in accordance with the provisions of title 4, chapter 5.

SECTION 2. Tennessee Code Annotated, Section 11-6-105(f), is amended by deleting the subsection in its entirety and by substituting instead the following:

(f) Any person, corporation, society or organization conducting such explorations or excavations upon lands owned or controlled by the state or any agency thereof without having first obtained a permit from the state archaeologist, or when appropriate the "Raise the Gunboats Commission", commits a Class A misdemeanor, except that any violation occurring on a site listed in the Tennessee register of archaeological sites where the commercial or archaeological value of the artifact involved and the cost of restoration or repair of such archaeological site or artifact exceeds the sum of five thousand dollars (\$5,000) is a Class E felony.

SECTION 3. Tennessee Code Annotated, Section 11-6-121(a)(1), is amended by deleting the item in its entirety and by substituting instead the following:

(1) Develop a plan regarding significant shipwreck sites in Tennessee which will include management strategies for the preservation and conservation of shipwrecks and acknowledges the role of the "Raise the Gunboats Commission";

SECTION 4. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 5. This act shall take effect July 1, 2004, the public welfare requiring it.